

# SENATE JOURNAL OF THE IDAHO LEGISLATURE

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FIFTY-EIGHTH LEGISLATURE

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**TWENTY-FIFTH LEGISLATIVE DAY  
THURSDAY, FEBRUARY 3, 2005**

Senate Chamber

President Risch called the Senate to order at 11 a.m.

Roll call showed all members present except Senators Cameron, Malepeai, and Noble, absent and excused.

Prayer was offered by Chaplain Don Hardenbrook.

The Pledge of Allegiance was led by Jessica Pfeiffer, Page.

The Senate advanced to the Third Order of Business.

## **Reading and Correction of the Journal**

The JUDICIARY AND RULES Committee reports that the Senate Journal of the proceedings of February 2, 2005, was read and approved as corrected.

DARRINGTON, Chairman

There being no objection, the report was adopted and ordered filed in the office of the Secretary of the Senate.

On request by Senator Davis, granted by unanimous consent, the Senate advanced to the Fifth Order of Business.

## **Petitions, Resolutions, and Memorials**

Senator Malepeai was recorded present at this order of business.

### **SCR 104**

#### **BY HEALTH AND WELFARE COMMITTEE**

##### **A CONCURRENT RESOLUTION**

STATING FINDINGS OF THE LEGISLATURE CONCERNING MEDICALLY INDIGENT HEALTH CARE AND DIRECTING THE DEVELOPMENT OF A TEST PROGRAM BY THE DEPARTMENT OF HEALTH AND WELFARE IN COOPERATION WITH PARTICIPATING COUNTIES AND REQUIRING A REPORT.

Be It Resolved by the Legislature of the State of Idaho:

WHEREAS, the state of Idaho has an incident-based health care program for the medically indigent that is funded entirely with county and state funds; and

WHEREAS, the Department of Health and Welfare, at the direction of the Legislature, has been meeting with representatives of the Idaho Association of Counties and others with an interest in health care to explore and evaluate ways in which present county medical indigency programs could be used to match federal funds through the state's Medicaid Program.

NOW, THEREFORE, BE IT RESOLVED by the members of the First Regular Session of the Fifty-eighth Idaho Legislature, the Senate and the House of Representatives concurring therein, that the Department work with the representatives of the Idaho Association of Counties and other health care interests to implement a test program in volunteer counties to be matched with federal Medicaid dollars. The eligible population will be adults between the ages of nineteen and sixty-four with incomes of up to one hundred eighty-five percent of the federal poverty level. The Legislature acknowledges that the test program will require approval of the federal Centers for Medicare and Medicaid Services (CMS) prior to implementation.

BE IT FURTHER RESOLVED that the Idaho Association of Counties report the results of the test program to the Second Regular Session of the Fifty-eighth Idaho Legislature, along with recommendations for any further legislative action based on the findings of the test program, to implement a statewide program.

### **SCR 105**

#### **BY LOCAL GOVERNMENT AND TAXATION COMMITTEE**

##### **A CONCURRENT RESOLUTION**

STATING FINDINGS OF THE LEGISLATURE AND REJECTING CERTAIN PROCEDURAL RULES OF THE BOARD OF TAX APPEALS RELATING TO REPRESENTATION AND PRACTICE BEFORE THE BOARD, NOTICE OF APPEAL AND AGENCY DISCOVERY RULES.

Be It Resolved by the Legislature of the State of Idaho:

WHEREAS, the Legislature is vested with authority to reject executive agency rules under the provisions of Section 67-5291, Idaho Code, in the event that the Legislature finds that the rules are not consistent with legislative intent; and

WHEREAS, it is the finding of the Legislature that certain rules of the Board of Tax Appeals relating to representation and practice before the board, notice of appeal and agency discovery rules are not consistent with legislative intent and should be rejected.

NOW, THEREFORE, BE IT RESOLVED by the members of the First Regular Session of the Fifty-eighth Idaho Legislature, the Senate and the House of Representatives concurring therein, that IDAPA 36.01.01, Section 030, relating to the Representation and Practice Before the Board (Rule 30), Section 045, relating to Notice of Appeal -- Contents (Rule 45), and Section 082, relating to Agency -- Contrasted with Other Discovery (Rule 82), procedural rules of the Board of Tax Appeals, adopted as pending rules under Docket Number 36-0101-0401, be, and the same are hereby rejected and declared null, void and of no force and effect.

**SCR 104** and **SCR 105** were introduced, read at length, and referred to the Judiciary and Rules Committee for printing.

The Senate advanced to the Sixth Order of Business.

### Reports of Standing Committees

Senator Cameron was recorded present at this order of business.

February 3, 2005

The JUDICIARY AND RULES Committee reports that **S 1080, S 1081, S 1082, S 1083, and S 1084** have been correctly printed.

DARRINGTON, Chairman

**S 1080, S 1081, S 1082, S 1083, and S 1084** were referred to the Transportation Committee.

February 2, 2005

The STATE AFFAIRS Committee reports out **S 1023** and **SCR 101** with the recommendation that they do pass.

BURTENSHAW, Chairman

**S 1023** was filed for second reading.

**SCR 101** was referred to the Tenth Order of Business, Motions and Resolutions, and ordered held at the Secretary's desk for one legislative day.

February 2, 2005

The JUDICIARY AND RULES Committee reports out **HCR 3, HCR 4, and HCR 5** with the recommendation that they do pass.

DARRINGTON, Chairman

**HCR 3, HCR 4, and HCR 5** were referred to the Tenth Order of Business, Motions and Resolutions, and ordered held at the Secretary's desk for one legislative day.

February 2, 2005

The JUDICIARY AND RULES Committee reports out **S 1036** with the recommendation that they be referred to the Fourteenth Order of Business for amendment.

DARRINGTON, Chairman

There being no objection, **S 1036** was referred to the Fourteenth Order of Business, General Calendar.

February 2, 2005

The STATE AFFAIRS Committee reports it has had under consideration the Gubernatorial appointment listed below and the Committee recommends that said appointment be confirmed by the Senate:

Lawrence Lafrenz as Adjutant General of the Idaho National Guard, term to expire at the pleasure of the Governor.

BURTENSHAW, Chairman

The Gubernatorial appointment was referred to the Tenth Order of Business, Motions and Resolutions, and ordered held at the Secretary's desk for one legislative day.

February 2, 2005

The HEALTH AND WELFARE Committee reports it has had under consideration the Gubernatorial appointment listed below and the Committee recommends that said appointment be confirmed by the Senate:

Toni Hardesty as Director of the Department of Environmental Quality, term to expire at the pleasure of the Governor

COMPTON, Chairman

The Gubernatorial appointment was referred to the Tenth Order of Business, Motions and Resolutions, and ordered held at the Secretary's desk for one legislative day.

On request by Senator Davis, granted by unanimous consent, the Senate advanced to the Ninth Order of Business.

### Messages from the House

February 2, 2005

Mr. President:

I transmit herewith **H 66** which has passed the House.

JUKER, Chief Clerk

**H 66** was filed for first reading.

February 2, 2005

Mr. President:

I return herewith **S 1026** and **S 1029** which have passed the House.

JUKER, Chief Clerk

**S 1026** and **S 1029** were referred to the Judiciary and Rules Committee for enrolling.

The Senate advanced to the Tenth Order of Business.

### Motions and Resolutions

Senator Noble was recorded present at this order of business.

The President announced that **SR 102** was before the Senate for final consideration.

Moved by Senator Davis, seconded by Senator Stennett, that **SR 102** be adopted. The question being, "Shall the resolution be adopted?"

Roll call resulted as follows:

AYES--Andreason, Brandt, Broadsword, Bunderson, Burkett, Burtenshaw, Cameron, Coiner, Compton, Corder, Darrington, Davis, Gannon, Geddes, Goedde, Hill, Jorgenson, Kelly, Keough, Langhorst, Little, Lodge, Malepeai, Marley, McGee, McKenzie, Noble, Richardson, Schroeder, Stegner, Stennett, Sweet, Werk, Williams (Williams). Total - 34.

NAYS--None.

Absent and excused--Pearce. Total - 1.

Total - 35.

Whereupon the President declared **SR 102** adopted, title was approved, and the resolution ordered filed in the office of the Secretary of the Senate.

The President announced that **SR 103** was before the Senate for final consideration.

Moved by Senator Davis, seconded by President Pro Tempore Geddes, that **SR 103** be adopted. The question being, "Shall the resolution be adopted?"

Roll call vote was requested by Senators Stennett, Burkett, and Werk.

Roll call resulted as follows:

AYES--Andreason, Brandt, Broadsword, Bunderson, Burtenshaw, Cameron, Coiner, Compton, Corder, Darrington, Davis, Gannon, Geddes, Goedde, Jorgenson, Keough, Little, Lodge, McGee, McKenzie, Noble, Pearce, Richardson, Stegner, Sweet, Williams (Williams). Total - 26.

NAYS--Burkett, Hill, Kelly, Langhorst, Malepeai, Marley, Schroeder, Stennett, Werk. Total - 9.

Total - 35.

Whereupon the President declared **SR 103** adopted, title was approved, and the resolution ordered filed in the office of the Secretary of the Senate.

The President announced that **SR 104** was before the Senate for final consideration.

Moved by Senator Davis, seconded by President Pro Tempore Geddes, that **SR 104** be adopted. The question being, "Shall the resolution be adopted?"

Roll call vote was requested by Senators Burkett, Stennett, and Werk.

Roll call resulted as follows:

AYES--Andreason, Brandt, Broadsword, Bunderson, Burtenshaw, Cameron, Coiner, Compton, Corder, Darrington, Davis, Gannon, Geddes, Goedde, Hill, Jorgenson, Little, Lodge, McGee, McKenzie, Noble, Pearce, Richardson, Stegner, Sweet, Williams (Williams). Total - 26.

NAYS--Burkett, Kelly, Keough, Langhorst, Malepeai, Marley, Schroeder, Stennett, Werk. Total - 9.

Total - 35.

Whereupon the President declared **SR 104** adopted, title was approved, and the resolution ordered filed in the office of the Secretary of the Senate.

The Senate advanced to the Eleventh Order of Business.

### **Introduction, First Reading and Reference of Bills, House Petitions, Resolutions, and Memorials**

The President called President Pro Tempore Geddes to the Chair.

#### **S 1085**

#### **BY STATE AFFAIRS COMMITTEE**

#### **AN ACT**

RELATING TO LIQUOR STORES AND DISTRIBUTION STATIONS; AMENDING SECTION 23-303, IDAHO CODE, TO PROVIDE THE MANNER IN WHICH THE DISTANCE BETWEEN A LIQUOR STORE OR DISTRIBUTION STATION AND A SCHOOL SHALL BE MEASURED.

#### **S 1086**

#### **BY HEALTH AND WELFARE COMMITTEE**

#### **AN ACT**

RELATING TO RECOVERY OF CERTAIN MEDICAL ASSISTANCE; AMENDING SECTION 56-218, IDAHO CODE, TO FURTHER GOVERN PROCEDURE FOR CLAIMS FOR RECOVERY AGAINST THE ESTATE OF DECEASED RECIPIENTS OF MEDICAL ASSISTANCE.

#### **S 1087**

#### **BY HEALTH AND WELFARE COMMITTEE**

#### **AN ACT**

RELATING TO ADMINISTRATION PROCEDURE FOR SMALL ESTATES; AMENDING SECTION 15-3-1201, IDAHO CODE, TO SPECIFY THE POWERS OF THE DIRECTOR OF THE DEPARTMENT OF HEALTH AND WELFARE TO BE CONSIDERED A SUCCESSOR OF THE DECEDENT FOR RECOVERY OF MEDICAL ASSISTANCE.

#### **S 1088**

#### **BY HEALTH AND WELFARE COMMITTEE**

#### **AN ACT**

RELATING TO RECOVERY OF CERTAIN MEDICAL ASSISTANCE; AMENDING SECTION 56-218, IDAHO CODE, TO LIMIT DISTRIBUTION OF THE ESTATE EXCEPT UNDER CONDITIONS SPECIFIED.

#### **S 1089**

#### **BY HEALTH AND WELFARE COMMITTEE**

#### **AN ACT**

RELATING TO THE IDAHO PRESCRIPTION DRUG PROGRAM; AMENDING TITLE 56, IDAHO CODE, BY THE ADDITION OF A NEW CHAPTER 14, TITLE 56, IDAHO CODE, TO ESTABLISH THE IDAHO PRESCRIPTION DRUG PROGRAM, TO SET PROGRAM GOALS, TO DEFINE TERMS, TO PROVIDE FOR REBATE AGREEMENTS, TO SET FORTH

REBATE AMOUNTS, TO PROVIDE FOR DISCOUNTED PRICES FOR QUALIFIED APPLICANTS, TO PROVIDE FOR OPERATION OF THE PROGRAM, TO PROVIDE FOR ACTION REGARDING NONPARTICIPATING MANUFACTURERS AND LABELERS, TO ESTABLISH A DEDICATED FUND, TO PROVIDE FOR ANNUAL SUMMARY REPORTS, TO SET FORTH DUTIES OF THE DEPARTMENT, TO PROVIDE FOR THIRD-PARTY CONTRACTING, TO PROVIDE FOR THE COORDINATION OF MEDICAL ASSISTANCE PROGRAMS, TO AUTHORIZE RULES AND TO AUTHORIZE THE DEPARTMENT TO SEEK NECESSARY FEDERAL WAIVERS.

**S 1090**

**BY HEALTH AND WELFARE COMMITTEE**

**AN ACT**

RELATING TO MANDATORY INCOME WITHHOLDING FOR CHILD SUPPORT; AMENDING SECTION 32-1214B, IDAHO CODE, TO REVISE THE DEFINITION FOR THE TERM "PLAN ADMINISTRATOR" AND TO DEFINE THE TERM "PLAN SPONSOR."

**S 1085, S 1086, S 1087, S 1088, S 1089, and S 1090** were introduced, read the first time at length, and referred to the Judiciary and Rules Committee for printing.

**H 66**, by Resources and Conservation Committee, was introduced, read the first time at length, and referred to the Resources and Environment Committee.

The Senate advanced to the Twelfth Order of Business.

**Second Reading of Bills**

**S 1056**, by Agricultural Affairs Committee, was read the second time at length and filed for third reading.

**S 1005, S 1006, and S 1007**, by Commerce and Human Resources Committee, were read the second time at length and filed for third reading.

On request by Senator Davis, granted by unanimous consent, the Senate advanced to the Fifteenth Order of Business.

**Miscellaneous Business**

On motion by Senator Davis, seconded by Senator Stennett, by voice vote the Senate adjourned at 12:30 p.m. until the hour of 11 a.m., Friday, February 4, 2005.

JAMES E. RISCH, President

Attest: JEANNINE WOOD, Secretary